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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

3M COMPANY,

Plaintiff,

vs.

RX2LIVE, LLC and RX2LIVE, INC.,

Defendants.

Case No. 1:20-cv-00523-NONE-SAB

**DECLARATION OF CHARLES
STOBBIE IN SUPPORT OF PLAINTIFF
3M COMPANY'S MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

*[Filed concurrently with Plaintiff's Notice of
Motion; Memorandum of Points and
Authorities; Declaration of Dale Giali;
Declaration of Carmine R. Zarlenga;
Declaration of David A. Crist; and
[Proposed] Order]*

Action Filed: April 10, 2020
Amended Complaint Filed: April 19, 2020
Jury Trial Demanded

1 I, Charles Stobbie, declare as follows:

2 1. I am a resident of the State of Minnesota; over the age of 18; and competent to make
3 this declaration. I could and would testify as to the matters set forth herein, if called upon to do so.

4 2. I am a Marketing Technologies and Digital Experience Director at 3M Company
5 (“3M”). Until very recently, I served as Global Marketing Operations Leader for 3M’s Personal
6 Safety Division. The information set forth herein is based on my personal knowledge obtained
7 through the course of my duties at 3M, which include, among other things, 3M’s: (i) brand-
8 development and marketing efforts for 3M’s Personal Safety Division; (ii) trademark policies; (iii)
9 sales and pricing guidelines; and (iv) efforts to assist in the battle against COVID-19. The
10 information set forth herein is also based on my review of records and documents (including
11 electronic records) maintained in the regular course of 3M’s business, and the complaint in this
12 lawsuit.

13 3. I submit this declaration in support of 3M’s motion for a temporary restraining order
14 and preliminary injunction against Defendants RX2Live, LLC and RX2Live, Inc. (“RX2Live”) in
15 the above-referenced action.

16 ***3M’s Efforts In the Battle Against the COVID-19 Public Health Crisis***

17 4. For decades, 3M has been a leading provider of personal protective equipment
18 (“PPE”) for healthcare professionals, industry workers and the public. This PPE includes N95
19 respirators, of which 3M is a leading manufacturer.

20 5. 3M’s N95-rated filtering facepiece respirators have a filtration efficiency of at least
21 95% against non-oily particles when tested using the U.S. National Institute for Occupational
22 Safety and Health criteria.

23 6. As a leading provider of PPE, 3M is “committed to getting personal protective
24 equipment to healthcare workers”:

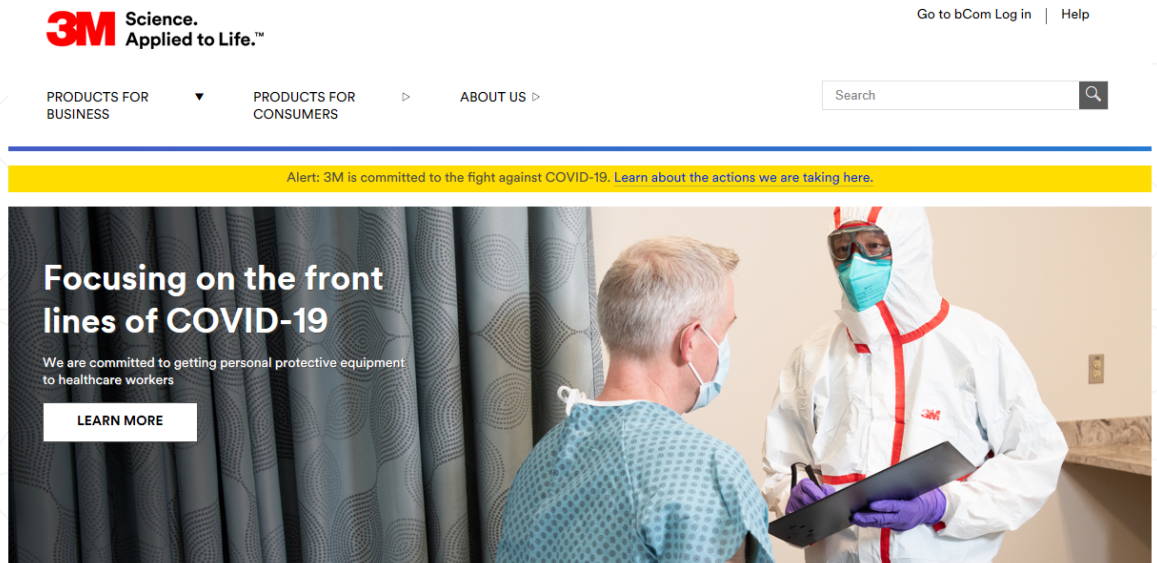
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7. Among the PPE that 3M is providing to the heroic individuals on the front lines of the battle against COVID-19 are 3M-brand N95 respirators.

8. Since the outbreak of COVID-19 in early 2020, 3M has doubled its global output rate of filtering facepiece respirators, such as N95 respirators, to 1.1 billion per year, to seek to ensure that adequate supply is available to governments and healthcare personnel, as well as to workers in other critical industries, including food, energy and pharmaceutical. *See Exhibit 1 (3M Outlines Latest Actions on COVID-19 Response, 3M Company, available at <https://news.3m.com/press-release/company-english/3m-outlines-latest-actions-covid-19-response> (March 31, 2020)).*

9. 3M is currently producing 35 million of its 3M-brand N95 respirators each month in the United States. *See Ex. 1; see also Exhibit 2 (3M and Trump Administration Announce Plan to Import 166.5 million Additional Respirators into the United States Over the Next Three Months, 3M Company, available at <https://news.3m.com/blog/3m-stories/3m-and-trump-administration-announce-plan-import-1665-million-additional-respirators> (Apr. 6, 2020)).* Approximately 90% of these respirators are now distributed for use by healthcare workers. *See Ex. 1; see also Exhibit 3 (Helping the world respond to COVID-19, 3M Company, available at https://www.3m.com/3M/en_US/company-us/coronavirus/ (last accessed Apr. 21, 2020)).*

1 10. In the last seven days of March 2020, alone, 3M sent 10 million of its 3M-brand
2 respirators to healthcare facilities around the United States. *See* Ex. 1. Over the course of the next
3 three months, 3M expects to import 166.5 million of its 3M-brand respirators to the United States.
4 *See* Ex. 2.

5 11. To help meet the growing demand for respirators during COVID-19, 3M has
6 invested the resources needed to double its current global production of 1.1 billion 3M-brand
7 filtering facepiece respirators, such as N95 respirators, a year to 2 billion respirators a year within
8 the next 12 months. *See* Exs. 1, 3.

9 12. At the same time, 3M has **not** increased the prices that it charges for 3M-brand N95
10 respirators as a result of the COVID-19 pandemic. *See, e.g.,* Ex. 3 (“We have not increased the
11 prices we charge for 3M respirators in this crisis”).

12 13. 3M has received public commendation and praise for its contributions to the
13 COVID-19 pandemic response, particularly with respect to its production of 3M-brand N95
14 respirators. Based on the public commendation and praise, and widespread media coverage of 3M-
15 brand N95 respirators during the COVID-19 pandemic, the public is more aware now than ever
16 that 3M manufactures N95 respirators and other PPE that is essential to helping protect healthcare
17 personnel and workers by reducing exposure to airborne particles including those that may contain
18 biological material such as viruses like COVID-19.

19 ***3M’s Efforts to Deter Price Gouging and Counterfeiting in Response to the Pandemic***

20 14. In an effort to thwart third-party price-gouging, counterfeiting, and outright fraud in
21 relation to 3M-brand N95 respirators, 3M has worked closely with law enforcement, retail partners,
22 and others. For example, on March 24, 2020, 3M’s Chief Executive Officer, Mike Roman, sent a
23 letter to U.S. Attorney General William Barr, and the President of the National Governors’
24 Association, Larry Hogan of Maryland, to offer 3M’s partnership in combatting price-gouging. *See*
25 **Exhibit 4** (*3M Supports Efforts to Curb Pandemic Profiteers*, 3M Company, available at
26 [https://news.3m.com/press-release/company-english/3m-supports-efforts-curb-pandemic-](https://news.3m.com/press-release/company-english/3m-supports-efforts-curb-pandemic-profiteers)
27 profiteers (March 24, 2020)).
28

1 15. In addition, 3M has (a) posted the single-case U.S. list price for several of its 3M-
2 brand N95 respirators on its website so that customers can more readily identify price-gouging (*see*
3 **Exhibit 5** (*Fraudulent Activity, Price Gouging, and Counterfeit Products*, 3M Company, available
4 at [https://multimedia.3m.com/mws/media/1803670O/fraudulent-activity-price-gouging-and-](https://multimedia.3m.com/mws/media/1803670O/fraudulent-activity-price-gouging-and-counterfeit-products.pdf)
5 [counterfeit-products.pdf](https://multimedia.3m.com/mws/media/1803670O/fraudulent-activity-price-gouging-and-counterfeit-products.pdf) (Apr. 8, 2020)); (b) created a form on its website through which
6 customers can report suspected incidents of price-gouging and counterfeiting (*see* **Exhibit 6** (*3M*
7 *COVID-19 Anti-Fraud, Anti-Price Gouging, and Anti-Counterfeiting Reporting*, 3M Company,
8 available at <https://engage.3m.com/covidfraud> (last accessed on Apr. 20, 2020)); and
9 (c) established a fraud “hotline” that customers can call to report suspect incidents of price-gouging
10 and counterfeiting (*see* Ex. 3 at p. 3 (“Call the fraud hotline.”)).

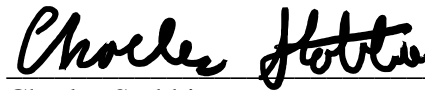
11 16. Collectively, the goal of these efforts is to help protect the public from inappropriate,
12 counterfeit, and/or inferior products and outrageous and unwarranted price inflation. 3M also
13 actively investigates and acts on complaints in order to protect the goodwill and reputation of the
14 3M brand, as well as to protect customers and healthcare workers who rely upon the availability
15 and proven quality of authentic 3M-brand N95 respirators.

16 17. Unfortunately, and notwithstanding 3M’s efforts, opportunistic third parties
17 throughout the United States have sought to exploit the increased demand for the 3M-brand N95
18 respirators by, upon information and belief, offering to sell them for exorbitant prices, selling
19 counterfeit versions of them, and accepting money for 3M-brand N95 respirators that they do not
20 possess or are not authorized to sell.

21 18. RX2Live is an example of a third party undertaking unlawful actions – in this
22 District – seeking to exploit the 3M brand and prey on unwitting customers and governmental
23 agencies in the midst of the COVID-19 public health emergency.

24 19. I declare under penalty of perjury under the laws of the United States that the
25 foregoing is true and correct.
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Executed this 24th day of April, 2020 at St. Paul, Minnesota.



Charles Stobbie